

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6855

BILL NUMBER: SB 238

NOTE PREPARED: Feb 1, 2010

BILL AMENDED: Feb 1, 2010

SUBJECT: Public Depositories.

FIRST AUTHOR: Sen. Hershman

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Meeting of Board of Finance:* It removes the discretion of a school corporation to determine if a board of finance meeting is needed on an annual basis.

Investment in Indiana Local Government: The bill permits counties and political subdivisions to invest public funds in certificates of deposit under certain conditions. It also permits local government investment officers to invest in municipal securities issued by an Indiana local governmental entity, a quasi-governmental entity related to the state, or a unit of government, municipal corporation, or special taxing district in Indiana so long as the issuer has not defaulted on an obligation within the 20 years preceding the date of the purchase.

Equity Securities/Municipal Securities Investment: The bill eliminates the power of the conservancy district in Lawrenceburg and Danville (Hendricks County) to invest in equity securities. It provides that in the case of the host community agreement future fund in Danville, the municipal securities in which the fund may invest may not have a maturity of more than five years. (Current law specifies that there is no maximum maturity for these investments.)

Board for Depositories - Board Members and Procedure: The bill provides for geographical representation on the Board for Public Depositories. It requires the four Governor appointments to be a chief executive officer or a chief financial officer of a depository and that each appointment represent a different segment of the financial institutions industry based on total deposits. It provides that if the depository is not an Indiana bank, the appointee must be the most senior corporate officer of the depository with management or operational responsibility, or both, or the person designated to manage public funds for the bank's depository that is located in Indiana. It specifies that the terms of the appointed member is four years and that a member's term does not extend beyond the appointed term. It permits the governor to reappoint a member

if the individual meets the requirements at the time of reappointment. It provides that a simple majority of the board members voting is required to approve an action by the board instead of a unanimous vote. It also changes the notice requirement for meeting notices from ten days to two days.

The bill eliminates a report by the Public Employees' Retirement Fund to the Board for Depositories' secretary-investment manager and an interest calculation concerning the coverage of local police and firefighter pension funds.

The bill allows the Board to fix the assessment rate at the times the Board determines are necessary instead of twice each year. It requires the assessment be effective on the first day of a month and with 90 days' notice. It exempts certain certificates of deposit issued by a federally insured bank or savings and loan association from the assessment calculation. It also provides that the Board may consider capital adequacy, liquidity, and asset quality in addition to any study by actuaries in establishing any change in the reserve for losses.

The bill increases the amount of anticipatory warrants the Board may issue to pay immediate claims when the assets in the Public Deposit Insurance Fund are not sufficient to pay claims from \$1,500,000 to \$300,000,000. It permits the Board to accept as collateral bonds or other obligations that the Board could not invest in if the Board determines the obligations are acceptable collateral. It permits the Board to determine whether a depository may withdraw collateral when the amount of public funds on deposit is at least 10% less than the market value of securities pledged as collateral. It allows the Board to determine the amount and type of substituted securities a depository may provide to insure the insurance funds solvency consistent with the depository's pro rata share of total deposit accounts of public funds based on an average of the depository's total public deposits. It also provides that the market value of the substituted securities as of the date of delivery may be less than, but not exceed, the amount determined by the Board.

Investment of Public Funds: The bill limits the maximum deposit of state and local public funds a public depository may have at any time to 100% of the balance in the Public Deposit Insurance Fund unless the depository pledges acceptable collateral as security for the excess amount of the deposit. It provides that a financial institution may not have public funds on deposit if it issues a credit card with an interest rate in excess of 21% per year. It provides that penalty rates, interest on cash advances, and annual fees may not be considered in calculating the 21% per year interest rate. It provides that the disqualification does not apply to an institution that serves only as an agent of such a credit card issuer.

Depository Placement: The bill replaces the requirement that money be invested in transaction accounts and certificates of deposit with the depository quoting the highest interest rate with the authority to invest in a depository offering any one of the top three interest rates so long as the reason for choosing the alternate depository is noted in the memorandum of quotes.

Joint Investment Funds: The bill provides that a joint investment fund may be invested or reinvested only in investments that are permitted for political subdivisions.

Effective Date: Upon passage; July 1, 2010.

Explanation of State Expenditures: (Revised) *Board for Depositories:* The bill makes changes to the qualifications of the Governor's appointments to the Board for Depositories (Board) and to the procedures of the Board including the necessary number for approval of items and the reduction of amount of notice necessary before a meeting of the Board. None of these changes is expected to have fiscal impact.

Background: The Board consists of the Governor, the State Treasurer, the State Auditor, the Chairman of the Financial Institutions Commission, the Chief Examiner of the State Board of Accounts, and four members appointed by the Governor who are Indiana residents and have had substantial expertise in commercial lending with depositories. Under the bill, each of the appointed members must be a CEO or CFO of a depository at the time of appointment, if it is an Indiana Bank. If the depository is not an Indiana Bank, the appointee must be the most senior corporate officer of the depository with management or operational responsibility, or a person designated to manage public funds, for the bank's depository in Indiana. The bill requires the Governor to provide for geographic representation of all regions in making these appointments. The bill also requires the appointments to come from different size depositories in terms of deposits ranging from less than \$500 M to at least \$5,000 M. These qualifications changes would affect appointments made after June 30, 2010.

Explanation of State Revenues: *Summary:* The bill will have indeterminate fiscal impact on state and local government concerning the rate of return and the amount of risk on money in funds controlled by the investing officer and available for investment. The bill has the potential to increase sources of investment for Indiana local projects by allowing investment in those projects and by allowing investing officers to accept a depository offering with the second or third highest rate of interest. Details of the changes follow:

(Revised) Investment in Indiana Local Government: The bill increases the investment options for state and local government for funds that are held by a designated officer and available for investment, by including municipal securities issued by an Indiana local governmental entity, quasi-governmental entity, municipal corporation, or special taxing district; and certificates of deposit in federally insured banks or savings and loans. The additional investment option could provide additional capital for state or local projects and potentially increase the risk and/or return for these investments. [Currently these funds may be invested in securities backed by the full faith and credit of the United States Treasury or securities fully backed by a federal agency or instrumentality, or a federal government sponsored enterprise.] The bill prohibits investment in municipal securities if the issuer has defaulted on obligations within 20 years of the date of purchase of the securities.

(Revised) Investment of Public Funds: The bill also provides that financial institutions are ineligible to become a public depository if it issues a credit card as a card issuer with an interest rate exceeding 21% per year. The interest rate calculated does not include penalty rates, interest on cash advances, and annual fees. The bill could change the make up of portfolio held by state or local government with indeterminate fiscal impact on the return and risk.

Depository Placement: Current law requires an investment officer to accept the bid of a depository that offers the highest rate of return for investment of funds in certificates of deposit. The bill allows the investment officer to place funds in a certificate of deposit with a depository quoting the second or third highest rate of interest and noting the reason for the placement. The rate of return would be diminished, but potentially local depositories could receive more deposits even if they are not paying the highest rate of interest available.

Board for Depositories: Other changes to the Board's procedure concerning the Public Deposit Insurance Fund (PDIF) have indeterminate fiscal impact.

The bill allows the Board to set the assessment rate to provide assets in the PDIF more than twice a year. However, there are no changes to a requirement that the rate may not change more than 2% in any six month period. The bill also increases the limit on anticipatory warrants issued by the Board to pay claims on the PDIF from \$1.5 M to \$300 M.

Background: The PDIF is maintained and operated by the Board and insures the deposits of all public money in Indiana depositories. The PDIF is funded by assessments payable by every depository that holds public funds. The PDIF assessment was suspended in 1985, but until that time it was a monthly fee not to exceed 2% of the sum of the minimum public fund balances that public funds depositories held during the month. As of June 30, 2009, the net assets of the PDIF totaled \$308,222,700.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Local Investment Requirements:* The changes outlined above for investment in the *Explanation of State Revenues* concerning public funds are also made relative to investment of public funds by county treasurers or fiscal officers of political subdivisions.

Equity Securities/Municipal Securities Investment: The investment options for the Lawrenceburg Conservancy District and the Town of Danville would be limited to investment in municipal securities, rather than the additional option of investing in equity securities. In addition, investment in municipal securities by Danville would be limited to those having a maturity of not more than 5 years. Current statute allows Danville to investment in municipal securities with a maturity of any number of years or no maturity date. This provision could reduce the return on investment but could also reduce investment risk.

State Agencies Affected: State Treasurer; Board for Depositories.

Local Agencies Affected: County treasurers and fiscal officers of political subdivisions.

Information Sources:

Fiscal Analyst: Jim Landers, 317-232-9869.